

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

v.

MAKAYLA MORRISSEY,

Defendant.

8:18CR275

ORDER

This matter is before the Court on defendant Makayla Morrissey’s (“Morrissey”) Motion for Compassionate Release (Filing No. 77) pursuant to 18 U.S.C. § 3582(c)(1)(A). Morrissey seeks release from concerns from the novel coronavirus (“COVID-19”) that are heightened by the fact that she is five months pregnant and has other health issues putting her at risk of complications. Morrissey, currently imprisoned in a Bureau of Prisons (“BOP”) facility in Illinois, is scheduled to be released in December 2020.

Under § 3582(c)(1)(A), Morrissey can request the Court reduce her term of imprisonment based on “extraordinary and compelling reasons.” *Id.* § 3582(c)(1)(A)(i). Section 3582(c)(1)(A) only allows Morrissey to make that request, however, *after* she “has fully exhausted all administrative rights to appeal a failure of the [BOP] to bring a motion on [her] behalf or the lapse of 30 days from the receipt of such a request by the warden of [her] facility, whichever is earlier.” *Id.*; *see also United States v. Raia*, 954 F.3d 594, 595 (3d Cir. 2020) (denying a compassionate-release motion for failing to meet either of the statutory requirements).

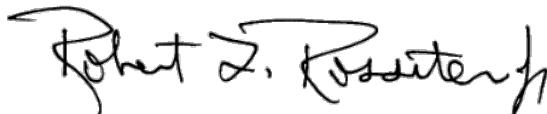
Here, Morrissey does not contend she has attempted to satisfy either of the statutory requirements under § 3582(c)(1)(A). She instead requests the Court excuse those requirements in this case based on the immediate and serious danger posed by COVID-19.

While the Court is sympathetic to Morrissey's concerns, the Court does not see any basis to excuse § 3582(c)(1)(A)'s requirements. Morrissey has made no attempt to satisfy those requirements, which results in "a glaring roadblock foreclosing compassionate release at this point." *Raia*, 954 F.3d at 597 (highlighting the importance of § 3582(c)(1)(A)'s requirements given the BOP's shared interest in a safe and healthy prison requirement). Accordingly, Morrissey's Motion for Compassionate Release (Filing No. 77) is denied without prejudice to refiling after either statutory requirement is met.

IT IS ORDERED.

Dated this 4th day of June 2020.

BY THE COURT:



Robert F. Rossiter, Jr.
United States District Judge